United Nations S/2009/253

Security Council

Distr.: General
18 May 2009

Original: English

Letter dated 14 May 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, and in accordance with paragraph 8 of Security Council resolution 1857 (2008), I have the honour to submit herewith the interim report of the Group of Experts on the Democratic Republic of the Congo (see enclosure).

I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Council and issued as a document of the Council.

(*Signed*) Baki **İlkin**
Chairman

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Enclosure

Letter dated 4 May 2009 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)

The members of the Group of Experts on the Democratic Republic of the Congo have the honour to transmit herewith the interim report of the Group prepared pursuant to paragraph 8 of Security Council resolution 1857 (2008).

(*Signed*) Dinesh **Mahtani**

(*Signed*) Raymond **Debelle**

(*Signed*) Mouctar Kokouma **Diallo**

(*Signed*) Christian B. **Dietrich**

(*Signed*) Claudio **Gramizzi**

Interim report of the Group of Experts on the Democratic Republic of the Congo

I. Introduction

1. By its resolution 1493 (2003), the Security Council imposed an arms embargo on all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and Ituri, and on groups not parties to the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo. By its resolution 1533 (2004), the Council established a sanctions Committee and a Group of Experts, to be composed of no more than four members, to monitor the implementation of the arms embargo. The Council further extended the embargo to any recipient on the territory of the Democratic Republic of the Congo, with exemptions including the Congolese army and police, by its resolution 1596 (2005).

2. By resolution 1596 (2005), the Security Council also established travel restrictions and imposed a freeze on the assets of individuals and entities violating the arms embargo, as designated by the Committee, and re-established the Group of Experts, with the addition of a fifth expert for financial issues. Following the establishment of the consolidated assets freeze and travel ban list by the Committee on 1 November 2005, the Council, by its resolution 1649 (2005), extended the applicability of the travel and financial restrictions to political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo and to Congolese militias receiving support from abroad who impede the participation of their combatants in disarmament, demobilization and reintegration processes.

3. In July 2006, by its resolution 1698 (2006), the Security Council renewed the arms embargo and the travel and financial measures until 31 July 2007, further broadening their applicability to political and military leaders recruiting or using children in armed conflict and to individuals committing serious violations of international law involving the targeting of children in situations of armed conflict. The arms embargo and targeted sanctions were further renewed until 31 March 2008 by Council resolutions 1771 (2007) and 1799 (2008).

4. By its resolution 1807 (2008), the Council renewed the arms embargo and the travel and financial measures until 31 December 2008 and limited the applicability of the embargo to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo. The Council also clarified that the measures on arms and technical training no longer applied to the Government of the Democratic Republic of the Congo. The Council terminated the requirement, originally established by its resolution 1596 (2005), that authorized shipments of arms and related materiel should be made only to sites designated by the Government in consultation with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). At the same time, in paragraph 5 of that resolution, the Council reiterated the obligation of supplier States to notify the Committee of all shipments of arms and related materiel to the Democratic Republic of the Congo and of any provision of assistance, advice or training related to military activities in that country.

5. By subparagraph 13 (e) of resolution 1807 (2008), the Security Council decided that the assets freeze and travel ban would also apply to individuals, as designated by the Committee, operating in the Democratic Republic of the Congo

and committing serious violations of international law involving the targeting of women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

6. By resolution 1857 (2008), the Security Council decided to extend the sanctions regime and the mandate of the Group of Experts as set out in resolution 1807 (2008) for a further period expiring on 30 November 2009, and requested the Group of Experts to report to the Council in writing, through the Committee, by 15 May 2009 and 15 October 2009. By paragraph 4 of resolution 1857 (2008), the Council decided that the assets freeze and travel ban would also apply to individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the Democratic Republic of the Congo, as well as individuals or entities supporting the illegal armed groups in the eastern Democratic Republic of the Congo through the illicit trade of natural resources.

7. By paragraph 8 of resolution 1857 (2008), the Security Council requested the Group of Experts to continue fulfilling its mandate as set out in paragraph 18 of resolution 1807 (2008), as follows:

(a) To examine and analyse information gathered by MONUC in the context of its monitoring mandate and share with MONUC, as appropriate, information that might be of use in the fulfilment of the Mission's monitoring mandate;

(b) To gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the Governments of those countries, on flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 1 of resolution 1807 (2008) (the arms embargo);

(c) To consider and recommend, where appropriate, ways of improving the capabilities of interested States, in particular those of the region, to ensure that the measures imposed by paragraph 1 of resolution 1807 (2008) are effectively implemented;

(d) To keep the Committee frequently updated on its activities;

(e) To provide the Committee, in its reports, with a list, with supporting evidence, of those found to have violated the measures imposed under paragraph 1 of resolution 1807 (2008) and those found to have supported them in such activities, for possible future measures by the Council.

8. In addition, by paragraph 9 of resolution 1857 (2008), the Council decided that the mandate of the Group of Experts should include providing the Committee with any information relevant to the Committee's designation of the individuals and entities described in paragraph 4 of the resolution, as well as to assist the Committee in updating the publicly available reasons for listing and identifying information for individuals and entities and in compiling narrative summaries referred to in paragraph 18 of the resolution.

9. The Security Council also directed the Group of Experts to continue to focus its monitoring activities in North and South Kivu and in Ituri, and, by paragraph 12 of resolution 1857 (2008), requested in particular that MONUC share information with the Group of Experts, especially on the support received by armed groups, on recruitment and use of children, and on the targeting of women and children in situations of armed conflicts. The Council also requested the Government of the

Democratic Republic of the Congo, MONUC and the Group of Experts to cooperate intensively, including by exchanging information regarding arms shipments, illegal exploitation of natural resources and regarding the activities of individuals and entities pursuant to paragraph 13 of resolution 1807 (2008).

10. In a letter addressed to the President of the Security Council dated 13 February 2009 (S/2009/93), the Secretary-General informed the Council that he had appointed the members of the Group of Experts as follows: Dinesh Mahtani (United Kingdom of Great Britain and Northern Ireland, finance expert and Coordinator), Raymond Debelle (Belgium, regional expert), Mouctar Kokouma Diallo (Guinea, Customs expert), Christian B. Dietrich (United States of America, aviation expert) and Claudio Gramizzi (Italy, arms expert). The Group was assisted in its mandate by two consultants, and by Francesca Jannotti Pecci, Political Affairs Officer in the Department of Political Affairs of the United Nations Secretariat.

11. The Group of Experts wishes to express its thanks, in particular, to the Special Representative of the Secretary-General and the staff of MONUC for their support and continued collaboration. The Group also wishes to acknowledge, with appreciation, the cooperation of the national authorities of the Democratic Republic of the Congo and Rwanda during the Group's missions to those countries.

II. Methodology

12. The Group of Experts commenced its work on 2 March 2009 in New York, where it held consultations with United Nations officials and diplomatic missions before travelling to Europe to meet with representatives of various Governments and non-governmental organizations. The Group arrived in Kinshasa on 20 March 2009 to begin five weeks of field work in the region. Along the lines of its previous mandate, and pursuant to paragraph 10 of resolution 1857 (2008), the Group adopted a case study approach, focusing on North and South Kivu and Ituri.

13. The Group of Experts worked in close collaboration with MONUC, relevant United Nations agencies and local organizations in its investigation of possible sanctions violations by armed groups in the eastern Democratic Republic of the Congo. In particular, the Group continued to research the activities of the Forces démocratiques de libération du Rwanda-Forces combattantes Abacunguzi (FDLR-FOCA), as well as the activities of the movement's political leadership and diaspora members. In the light of the political and military developments which have transpired since the beginning of 2009, the Group also focused its analysis on the integration process in the Congolese armed forces (FARDC) of the Congrès national pour la défense du peuple (CNDP) and other Mai-Mai militias, as well as on non-integrated elements which remain outside of the current peace process. As requested by the Security Council in paragraph 5 of resolution 1807 (2008), and reaffirmed by paragraph 1 of resolution 1857 (2008), the Group continued to investigate possible arms shipments to the Democratic Republic of the Congo which were not notified by exporting countries to the Committee.

14. The Group also monitored the implementation by Member States of the targeted travel and financial measures imposed against individuals and entities on the Committee's list.[1]

15. Pursuant to paragraphs 4 and 9 of resolution 1857 (2008), the Group of Experts investigated individuals suspected of having committed violations of international humanitarian law by targeting women and children, impeding the disarmament process, recruiting child soldiers, and obstructing access to, or the distribution of, humanitarian assistance in the eastern Democratic Republic of the Congo. The Group continued its research into the linkage between the illegal exploitation of natural resources and the financing of illegal armed groups.

16. The Group of Experts used evidentiary standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report (S/2006/997), relying on authentic documents and, wherever possible, first-hand, on-site observations by the experts themselves. When this was not possible, the Group corroborated information using at least three independent and reliable sources.

17. The Group met with a number of different interlocutors during its fieldwork, including the civilian and military authorities of the Democratic Republic of the Congo and other regional States, MONUC staff, national civil aviation authorities, mineral traders, representatives of business entities, air and land transport companies and non-governmental organizations, as well as former and current militia members. A list of meetings and consultations held by the Group is contained in the annex to the present report.

III. Political and military context

18. The political and military situation in the eastern Democratic Republic of the Congo has changed dramatically since January 2009 when the Governments of the Democratic Republic of the Congo and Rwanda embarked upon joint military operations (known as *Umoja Wetu*) against FDLR, and following the arrest of General Laurent Nkunda, the military leader of CNDP, on Rwandan soil. Joint operations of FARDC and the Rwandan Defence Force (RDF) began on 20 January 2009, with RDF officially withdrawing from the eastern Democratic Republic of the Congo on or about 25 February 2009. Since March 2009 MONUC has been supporting FARDC operations against FDLR (known as *Kimia II*), with the objective of stifling FDLR counterattacks and eventually dismantling the rebel group.

19. During *Umoja Wetu*, the FARDC-RDF alliance was able to push back FDLR from some of its key locations, but the military operation suffered from a short timespan, logistical bottlenecks and the reported embezzlement of operational funds, and failed to break the FDLR command and control apparatus, which remains intact. Since the withdrawal of RDF, FDLR has counterattacked in various locations across North and South Kivu, resulting in increased civilian casualties. Delays in the disbursement of FARDC salaries have also exacerbated indiscipline within the newly integrated FARDC units, resulting in ongoing human rights violations perpetrated by FARDC, including looting and attacks on the civilian population.

[1] Available from www.un.org/sc/committees/1533/pdf/1533_list.pdf.

20. The arrest of General Nkunda in January 2009, followed by the accelerated integration of CNDP into FARDC, has succeeded in disrupting part of the support networks linked to CNDP. Many members of General Nkunda's executive committee left the Democratic Republic of the Congo in 2008, taking with them the access to the external financial networks used by CNDP, although the Group has received confirmation that some members of that committee are resurfacing in the region. According to many sources, most CNDP senior officers still consider General Nkunda their leader, even if they are obliged to follow orders from the new FARDC structures.

21. A political agreement between the authorities of the Democratic Republic of the Congo and CNDP led by the latter's new president, Désiré Kamanzi, was formally signed on 23 March 2009. The agreement includes clauses on the integration of the CNDP military and police structures, the transformation of CNDP into a political party, the release of political prisoners and the prospect of an amnesty law, the return of refugees to the eastern Democratic Republic of the Congo, the structure of public administration, security sector reform, and the care of CNDP widows, wounded and orphans. The Group understands that much of the follow-up work to implement these clauses had yet to be set in motion as at the end of April 2009. At the time of the submission of this report, CNDP was also still expected to offer proposals on FARDC reform.

22. Kinshasa and Kigali have been brokering meetings between prominent members of the political and business community in North Kivu, with discussions centring in part on the possibility of imposing a new governor in Goma who could better represent their respective interests. Some of the discussions have focused on the possibility of eventually splitting North Kivu into two provinces to achieve this. Those deliberations have involved political networks close to Désiré Kamanzi and Eugène Serufuli, a former governor in North Kivu, although the Group understands that political figures closer to General Nkunda are now involved in some negotiations. In the meantime, the Group understands that the potential for land disputes is on the increase, following a reported sudden increase in the purchase of land parcels by wealthy individuals in some parts of North Kivu amid a large-scale repatriation of cattle back to the province, including many that were evacuated before the escalation in fighting in 2008. The Group considers that the success of military integration will depend on how much confidence Kinshasa and Kigali retain in the balancing of their political and economic interests in the eastern Democratic Republic of the Congo.

23. Some parts of North Kivu have remained under parallel civilian administrations, with CNDP-appointed agents continuing to work in administrative offices in certain local government posts in Rutshuru and Masisi territories. In Masisi, towards the CNDP stronghold of Kitchanga, CNDP officials are collecting a number of local taxes. The CNDP leadership argues that it has no choice but to do this in order to take care of its war wounded and look after troops on the ground as long as Kinshasa fails to pay for those costs. Additionally, the Group received information confirming that such arrangements are being implemented with the informal consent of the authorities in Kinshasa, pending the availability of funds for the payment of salaries of former CNDP soldiers integrated into FARDC.

24. At the end of April 2009, Operation *Kimia II* was yet to be fully on track. Following the deployment of two senior ex-CNDP officers, General Sultani

Makenga and Colonel Claude Mucho, to Bukavu and Kindu, respectively, in March 2009, operational plans were put on hold for logistical reasons. Colonel Mucho's troops had started to move towards Shabunda in South Kivu, although some FARDC officers admitted to the Group that the real objective behind joint operations is to finally take control of mining zones in Walikale. The Group understands from FARDC sources that operations launched by FARDC from Bukavu would be organized in part to clear out FDLR elements from mineral-rich zones in Kalehe.

25. The Group has obtained information about various local arms-trafficking networks connected to Burundi, and will continue to monitor developments within the Burundian peace process and the demobilization of FNL, which could have a regional spillover effect. On 9 April 2009, heavy fighting erupted in Uvira town in South Kivu, and 200 prisoners were released after an attack on the prison there. The Group is verifying credible reports that some of the fighters involved could have been Burundian. The Group has also received some information about the presence of Burundian trafficking networks that are linked to FDLR.

26. There are still several armed groups in South Kivu which have not yet joined the integration process, including the Mai-Mai Yakutumba, Mai-Mai Zabuloni and the Forces républicaines fédéralistes (FRF). Late in March and early in April 2009, there were several clashes involving the FARDC 112th Non-integrated Brigade, Mai-Mai Yakutumba, FRF and Mai-Mai Zabuloni. The Group is monitoring developments.

27. The Group is also concerned about ongoing militia activities in the Ituri region, which it continues to monitor closely.

28. In addition to information reported by the previous Group (see S/2008/773), during the current mandate the Group has received verified reports of hundreds of civilian casualties and abductions at the hands of the Lord's Resistance Army (LRA) in the north-eastern Democratic Republic of the Congo since December 2008, and continues to monitor the situation.

IV. Integration of non-State armed groups into FARDC

29. The Group interprets its mandate in the changed political context as requiring the monitoring of the ongoing integration of non-State armed groups into FARDC, and assessing the possible presence of parallel command structures. While the Group understands that integration is an ongoing process that requires time for full implementation, the Group considers it necessary to conduct an evaluation of the integration process to determine whether CNDP and the Mai-Mai are still non-governmental armed groups and therefore subject to continued investigations under the Group's mandate.

30. The accelerated integration of former militias into FARDC began in North Kivu late in January 2009, after a very short period of planning, which did not always include a transparent registration process and full identification and regroupment of combatants in designated integration sites prior to redeployment. Brigade units of non-State armed groups such as CNDP, the Coalition des patriotes résistants congolais (PARECO) and other Mai-Mai groups were broken down to company level, mixed with existing FARDC units and deployed under a mixed military hierarchy of commanding officers throughout North Kivu. During this

process, the Government failed to immediately place new FARDC elements on salary lists. Subsequent delays in the disbursement of salaries to all FARDC units in North Kivu have contributed in part to a spate of lootings and robberies by FARDC elements throughout North Kivu.

31. The accelerated integration process, which resulted in the redeployment of troops before the identification process was completed, has made it impossible to determine the exact number of new recruits into FARDC. According to the Government's technical commission on integration, roughly 12,000 new elements have been identified, 6,006 of whom are former CNDP combatants and 2,872 PARECO fighters, and the remainder various other Mai-Mai groups.

32. According to several officials interviewed by the Group of Experts, the level of disarmament of the non-State armed groups has been weak. The Government's technical commission on integration announced on 22 April 2009 that the 12,000 new recruits have to date handed over 3,550 weapons, of which 3,500 were individual small arms. Only 2,542 weapons were handed in from the 6,006 CNDP ex-combatants identified in the integration process. Only 687 arms were handed over from the 2,872 PARECO elements identified.

33. In terms of larger weapons, CNDP has only handed in seven PMK assault rifles, one MAG machine gun, seven RPG-7, four 60-mm mortars, one 82-mm mortar, six 75-mm recoilless guns, two SPG-9 recoilless guns and four multiple rocket launchers, according to the technical commission on integration. According to FARDC officials, some of these arms were originally part of the FARDC stock, while others were originally from elsewhere. The stock handed in represents only a small percentage of the arms stock held by CNDP in 2008, according to several military sources.

34. The Group has been gathering information about the existence of various arms caches, including stocks of heavy weapons seized by CNDP from the FARDC military base at Rumangabo in 2008, as well as weapons received by CNDP from sources other than FARDC. The Group has obtained information about the location of some of these stockpiles and has received credible information that a significant number of the stockpiles remain under the control of former CNDP military officers.

35. The Group has evidence that a number of former CNDP military officers who are now in FARDC are operating parallel command structures. The Group has received testimonies from senior FARDC officers and sources close to CNDP that General Bosco Ntaganda, the former military chief of staff of CNDP (and listed by the Committee since 1 November 2005), is acting as a de facto FARDC deputy commander for military operations in the Kivus in spite of the apparent nomination of Colonel Isidore Kaumbu Nyankole to this post. The Group has obtained a document that corroborates General Ntaganda's role as de facto FARDC deputy commander.

36. Through documentation, several interviews and field visits, the Group has established that CNDP continues to excise illegal taxes in its former stronghold around Kitchanga, in Masisi territory of North Kivu. Civilian tax administrators supported by military officers are responsible for issuing CNDP-stamped tax receipts to road haulage carriers and various markets in the territory. The Group has calculated using documented figures that CNDP could be receiving as much as

$250,000 per month from these ground taxes. The Group understands from numerous sources that General Ntaganda has access to some of these funds.

37. The Group has been informed by several eyewitnesses, including demobilized former CNDP soldiers, of the presence of a significant number of ex-CNDP soldiers near Ngungu in Masisi territory who have not been integrated into FARDC and who are often armed and wearing civilian clothes. The Group also understands from numerous interviews with former CNDP soldiers from Ngungu that a number of FARDC troops under the control of Lieutenant Colonel Innocent Zimurinda of the FARDC 231st Brigade in Ngungu are foreign nationals.

38. MONUC has calculated that it has repatriated at least 244 foreign fighters, including 75 children, from CNDP from January to mid-April 2009, the large majority returning to Rwanda. These figures confirm the Group's conclusions (see S/2008/773) concerning cross-border recruitment by CNDP.

39. The Group of Experts visited Walikale, close to the site of the Bisie mine, the most prolific cassiterite mine in the Kivus, where it gathered information on the control of the mine by different military officials responding to rival command structures and collaborating with various mineral-exporting companies. According to interviews and Government documents obtained by the Group, part of the mine is under the control of some senior FARDC officers appointed by Kinshasa before January 2009, but it has also now been partially occupied by elements taking orders from an ex-CNDP commander, now part of the FARDC 1st Integrated Brigade, which has expelled Government mining agents from the mining site. The mine was controlled by elements of the FARDC 85th Brigade until earlier in 2009, when the Government persuaded the commander of the 85th Brigade to vacate the site. The Group will continue to evaluate whether competition for control of the mine will affect the integration process and the arms embargo.

40. The Group has credible information about a large number of desertions from FARDC since January 2009, from former CNDP, PARECO and other Mai-Mai units. The Group is investigating reports that some former PARECO elements in North Kivu that have deserted FARDC have now linked up with FDLR units.

V. Police integration

41. The Group is also monitoring police integration. Under the political agreement signed on 23 March 2009, the Government is responsible for the creation of a "*police de proximité*", which will act as a community-level police force which recruits local officers, to be deployed alongside regular integrated police units under the national police. Until the creation of this *police de proximité*, CNDP elements integrated within the national police are expected to remain engaged in the areas where they are currently deployed.

42. According to several sources and available data, the number of ex-CNDP elements currently positioned in the integrated police structures in North Kivu outweigh other elements. In addition to this, most of the ex-CNDP elements have received only basic formal training from the police and have been integrated into the national police without any law enforcement equipment. The Group understands that salary lists relative to the composition of the newly integrated national police

structure have been submitted to Kinshasa, but their approval was still pending at the time of the submission of this report.

43. The national police in North Kivu currently suffers from a serious lack of equipment, often a result of the theft of equipment stocks between October 2008 and January 2009. In Rutshuru in April 2009, the Group calculated that the territory-level national police had a stock of fewer than 300 AK-47 assault rifles and a limited quantity of ammunition. Before the CNDP offensive in October 2008, the national police there had registered more than 1,000 rifles and 56,650 rounds of ammunition as having been in its inventory. However, during the national police integration process in Rutshuru, ex-CNDP policemen handed over virtually no weapons.

VI. Customs

44. The Group continued to monitor the control and management of Customs and border posts, with a view to determining whether Customs rackets are still being imposed by military officials, and whether these financing networks affect the integration process.

45. Following the expulsion of Government agents from the Bunagana border post in August 2008 by CNDP, the armed movement was left in exclusive control of the post until January 2009 when a political agreement was forged between CNDP and Kinshasa.

46. During the period up to January 2009, provincial authorities estimated that more than US $200,000 was lost every month, in view of the lack of official Customs receipts. CNDP used the Bunagana border post to bring in supplies to sustain its military operations, raise taxes from imports and grant Customs exemptions to favoured businessmen.

47. According to Customs agents, all the Customs registries and documentation used by CNDP were confiscated and hidden just before Government-appointed Customs officials arrived back in Bunagana. Those registries and documentation are reportedly still in the hands of one of General Nkunda's finance commissioners.

48. Despite the re-establishment of State authority in Bunagana, the Group has received information that some FARDC officers, including prominent former CNDP officers, are still endeavouring to use the Bunagana border post for illicit activities.

49. The Group has obtained documentation showing that the wife of General Bosco Ntaganda attempted to undervalue the import of 26 tons of rice and 250 boxes of tomatoes destined to supply FARDC in March 2009. The cargo was blocked by Customs officials who confirmed their right to apply excise duty with senior military officials in Kinshasa.

50. According to several sources at Bunagana, the representative of General Ntaganda's wife was protected by armed soldiers and eventually paid a fine of $1,100 instead of the $2,700 demanded by Government Customs authorities. According to sources interviewed by the Group in Goma, General Ntaganda has been given permission to import foodstuffs for FARDC; if this is true, such goods would normally be considered exempt from Customs duties according to numerous Customs officials.

51. During a visit to Bunagana, the Group witnessed Captain Seko, who is known to be the brother of General Laurent Nkunda and who has now been integrated into FARDC, entering the offices of L'Office des douanes et accises. Sources in Bunagana informed the Group that Captain Seko regularly extorts money from Customs agents there. The Group understands that Captain Seko was arrested late in April 2009 for possession of an illegal arms cache.

VII. FDLR

Joint operations against FDLR and FDLR reprisals

52. Operation *Umoja Wetu* against FDLR was launched in mid-January 2009, striking key FDLR bases in North Kivu at Kalonge, Kibua and Remeka in Masisi territory and other FDLR strategic locations in Rutshuru. The FARDC-RDF offensive pushed FDLR Major General Sylvestre Mudacumura (listed by the Committee on 1 November 2005) and some of his military commanders, including elements of the FDLR Reserve Brigade, from Masisi towards Walikale territory in North Kivu, where they were still present at the end of April 2009.

53. During January and February 2009, MONUC repatriated 390 FDLR ex-combatants back to Rwanda through its disarmament, demobilization, reintegration, repatriation and resettlement process, roughly 50 ex-combatants short of the total number of such repatriations of FDLR in 2008. MONUC repatriations under that process numbered 159 FDLR ex-combatants for March and part of April 2009, while Operation *Kimia II* against FDLR has been sporadically continuing in Masisi, Lubero and Rutshuru territories. MONUC estimates the current fighting strength of FDLR at around 4,500, spread between North and South Kivu.

54. According to FDLR deserters, MONUC sources and other interlocutors, the FDLR presence in South Kivu has been largely untouched, particularly at key mining sites identified by the previous Group in its final report (S/2008/773). Under the current mandate, the Group has received credible reports of an increase in the concentration of FDLR fighters around Hombo and in Mwenga and Shabunda territories in South Kivu since January 2009, and increased numbers of attacks on civilians around Bunyakiri. The Group has some information that a significant number of FDLR combatants have moved towards the Kahuzi Biega and Maiko national parks, which have been used by FDLR as rear bases where they can also continue exploiting mineral sites out of reach of FARDC.

55. Since February 2009, FDLR have engaged in more frequent military operations to recover positions lost during *Umoja Wetu*. The armed group has led guerrilla-style counter-attacks in Pinga, Remeka and Kashebere in Masisi territory, and has reoccupied gold mines in Lubero which were vacated during *Umoja Wetu*. The Group has noted that FDLR have perpetrated a number of attacks against civilians in North and South Kivu, in what appears to be retaliation for *Umoja Wetu* and *Kimia II*.

56. The Group has received a copy of a propaganda tract addressed to civilians in the town of Miriki in Lubero territory and delivered around 14 April 2009, warning them not to support FARDC. The Group understands that troops of either FDLR or the Rassemblement pour l'unité et la démocratie (RUD) attacked the area on 17 April 2009, burning up to 250 homes and killing around a dozen civilians. The

Group has been informed by several sources that such tracts are commonly issued to civilians prior to attacks, as part of a policy to intimidate civilians into supporting the armed groups.

57. The Group has received information that Ignace Murwanashyaka, the Germany-based president of FDLR-FOCA who was listed by the Committee in November 2005, was involved in coordinating FDLR counter-attacks in North Kivu after February 2009. According to a senior FDLR deserter who was in General Mudacumura's protection unit, Murwanashyaka was in regular contact with General Mudacumura throughout *Umoja Wetu* and *Kimia II* via a satellite telephone in General Mudacumura's possession, ordering him to follow a strategy of retreat during *Umoja Wetu*, and counter-attack during *Kimia II*, with specific instructions to recover positions lost during *Umoja Wetu*. The Group has verified the satellite telephone records of General Mudacumura during this period and can confirm several communications between General Mudacumura and Mr. Murwanashyaka from January 2009 onwards. Jean-Marie Higiro, the United States-based president of RUD, was also reportedly in regular telephone contact with General Mudacumura from January 2009 onwards.

58. According to FDLR deserters who served with the Reserve Brigade, General Mudacumura was in contact with the Reserve Brigade Commander, Lieutenant Colonel Lucien Nzabanita, from January 2009 onwards via radio and satellite telephone, and eventually instructed Nzabanita to retake positions lost during *Umoja Wetu*. According to FDLR deserters, elements from the FDLR Zodiac Battalion alongside FDLR commandos led by Major "Vainqueur" attacked Remeka several times under orders from Lieutenant Colonel Nzabanita, burning down huts and killing civilians in numerous attacks from the end of February 2009 onwards.

59. One FDLR defector involved in those operations informed the Group that he had been ordered to issue tracts to the civilians in Remeka, encouraging them to support FDLR, before the attacks began. The defector reported that he had worked alongside an FDLR commando known as "Vainqueur", who has been identified by displaced civilians from areas around Remeka as one of the coordinators of those FDLR reprisal attacks.

FDLR support networks and financing

60. According to numerous sources, including FDLR deserters, FDLR have established an extensive international support network consisting of various diaspora FDLR commissioners who are in regular contact with appointed deputy commissioners in the eastern Democratic Republic of the Congo who, in turn, serve as advisers to General Mudacumura. Some of these diaspora FDLR members and supporters are also allegedly involved in fund-raising activities and organizing international money transfers.

61. The Group has analysed telephone records for numbers belonging to FDLR military commanders and has identified frequent calls by FDLR military commanders to more than 20 countries in Europe, Africa and North America. The Group addressed official correspondence to those Member States late in March 2009, asking national authorities to identify the owners of those telephone numbers by 20 April 2009. To date, one African and three European Governments have informed the Group that they are working to obtain the information. Another European Government has already supplied the Group with the requested

information. The Group intends to report to the Committee on the level of cooperation which is received from the Member States concerned on this issue.

62. Senior FARDC officers claim that FDLR no longer benefit from extensive collaboration with FARDC, given the general context of FARDC operations. However, the Group continues to investigate specific cases of continued FARDC-FDLR collaboration and intends to report on those findings, as appropriate.

63. The Group has received information regarding an FDLR recruitment and support network operating in Burundi, and is further investigating the matter.

64. The Group also continues to investigate FDLR control of natural resources as a prime source of fund-raising. The Group understands that, as at the end of April 2009, FDLR continue to control many of the same cassiterite mining sites in South Kivu as were identified by the previous Group of Experts in 2008, and have regained control of important gold mines west of Lubero after initially being displaced from them during *Kimia II*. The Group has also obtained information that the FDLR gold trade to Butembo and Bujumbura, as highlighted in the previous Group's final report (S/2008/773), remains active. The Group will continue building case studies on individuals and entities that are knowingly purchasing minerals from FDLR sources.

65. The Group has gathered information on intense charcoal production controlled by FDLR in the Virunga National Park, along with other forms of exploitation of the Park's resources. The Group is concerned about the continued presence of FDLR elements in the Park who obstruct the activities of the Institut congolais pour la conservation de la nature by perpetrating frequent attacks on its rangers during patrols to stop illegal charcoal-making activities. The Group has also received verified information that FDLR elements are collecting a charcoal tax imposed on civilians.

66. The Group of Experts is encouraged by the Institute's initiative to promote production of combustible briquettes as an alternative to charcoal. The Group considers this initiative as a way to significantly weaken FDLR financial support through the illegal exploitation of the National Park, while at the same time creating a development option for the population living in the Park. The Group encourages the Government of the Democratic Republic of the Congo and international donors to ensure full support to this initiative.

VIII. Technical violations of resolution 1807 (2008)

67. The Group of Experts has continued its investigations into technical violations of the arms embargo pursuant to paragraph 5 of resolution 1807 (2008). The Group was informed by the Committee that it had received notifications by two Member States exporting military equipment to the Democratic Republic of the Congo, with proposed deliveries in April and May 2009.

68. The Group would welcome the provision of all relevant information, including the itinerary of declared shipments in such notifications by exporting States, as stated in paragraph 5 of resolution 1807 (2008). This should include the name of the vessel and name of the transport company delivering the material, so that the Group can effectively identify declared shipments from potentially non-declared ones. Moreover, the provision of the following information concerning arms and

ammunition deliveries would enable the Group to trace arms deliveries to the Democratic Republic of the Congo more efficiently:

(a) Complete list of identification numbers and other marking codes on weapons;

(b) Complete list of codes marked on the head-stamps of ammunition, or codes marked on shells;

(c) Additional information relevant to the marking codes of the boxes and other containers used for transportation.

69. The Group of Experts has obtained information to the effect that arms and ammunition were transported to FARDC from the Sudan in December 2008 and February 2009. The military equipment was loaded at Khartoum International Airport on to a Boeing 707 aircraft registered in the Democratic Republic of the Congo that had been requisitioned by the Ministry of Defence of the Democratic Republic of the Congo in September 2008. Flights of the aircraft occurred on 4 and 5 December 2008, and on 12 and 14 February 2009. The Group has submitted a request to the Permanent Mission of the Sudan for further clarification. The Group is concerned that continued violations of paragraph 5 of resolution 1807 (2008) could further hinder mechanisms to promote effective stockpile management by FARDC. The Group is looking into further violations and will report to the Committee in due course.

70. The Group is further concerned by the continued use of civilian aircraft requisitioned by FARDC to transport arms to the Democratic Republic of the Congo. The Group has received complaints that FARDC does not pay for the requisitioned flights; that the flights can compromise the safety of the civilian aircrew; and about non-compliance with civil aviation procedures such as the declaration of dangerous goods. The Group recognizes the limited air transport capacity of FARDC, but is also aware that the requisitioning of aircraft can lead to air safety problems in the Democratic Republic of the Congo, in violation of paragraph 6 of resolution 1807 (2008). For example, a Let 410 transport aircraft received an authorization on 4 February 2009 to perform a ferry flight to Goma and was given a provisional Congolese registration number for this purpose. The aircraft was then requisitioned by FARDC from 10 to 23 February 2009 without the required documents of the Congolese Civil Aviation Authority, including the certificate of airworthiness and registration certificate. The aircraft experienced a technical problem following departure from Goma on 11 February 2009, and was forced to return to the airfield. The requisitioned aircraft, however, operated 12 transport flights to Kilambo airstrip, Walikale territory, during the period that it was requisitioned by FARDC, and carried cassiterite on its return flights to Goma.

IX. Stockpile management

71. The Group intends to continue monitoring FARDC stockpile management during the course of its mandate, as it did previously (see S/2008/773). Proper management of FARDC weapons stockpiles is critical to avoid the diversion of arms and ammunition to non-governmental armed groups, as well as avoiding dangerous safety hazards. The poor condition of stocks and control mechanisms within FARDC

and the national police, coupled with poorly disciplined and paid troops, poses a serious risk of continued diversion of military equipment to armed groups.

72. The management of FARDC stockpiles can also have a serious implication for aviation safety in the Democratic Republic of the Congo. In November 2008 the MONUC Aviation Safety Unit submitted an observed hazard report detailing the risks for the safety of MONUC staff and assets at Goma airport arising from FARDC transportation and storage of military equipment at the airport. The report noted that arms and ammunition were offloaded for FARDC in close proximity to MONUC operations at the main apron of the airport. The arms and ammunition were then stored in an adjacent facility that the MONUC Aviation Safety Unit deemed to be in close proximity to United Nations operations, with a high potential for loss of life and property. The Group has been informed of the continued offloading of military equipment at the main apron at Goma airport in April 2009, and that FARDC continues to use the adjacent storage facility described in the MONUC report.

73. The Group of Experts also intends to continue monitoring the issue of FARDC military training by foreign personnel in connection with paragraph 5 of resolution 1807 (2008). The Group considers that any training provided by States, companies or private individuals without prior notification to the Committee constitutes a technical violation under resolution 1807 (2008). The Group recalls that the previous Group named several countries (see S/2008/773, para. 144) that had provided military training to FARDC without having notified the Committee in advance.

X. Violations of subparagraphs 4 (d), (e) and (f) of resolution 1857 (2008)

74. In line with the methodology applied in the previous mandate, for the purpose of its investigations, the Group relied on verified reports collected from MONUC, UNICEF, the United Nations Joint Human Rights Office in the Democratic Republic of the Congo and the Office for the Coordination of Humanitarian Affairs, as well as on information from local and international non-governmental organizations working in the field of child protection, human rights and the provision of humanitarian assistance. The Group's findings are also based on direct observations by the experts in the course of their field research. In-depth interviews conducted with adults, children and caregivers have provided first-hand testimonies to supplement the findings.

Recruitment of children

75. According to MONUC, from 1 February to 29 April 2009, a total of 911 children were formally separated from the armed groups during the accelerated integration process; of this number, 381 children were from the PARECO militia, 145 children were from CNDP, 357 from the various Mai-Mai groups, 12 from FDLR and 16 from FARDC.

76. The Group analysed a total of 288 documented recruitment cases of children who were separated from the armed groups from November 2008 to mid-March 2009 in North Kivu. A total of 86 recruitment cases were conducted by CNDP

forces, 69 by Mai-Mai groups, 62 by PARECO, 16 by FDLR and 3 by FARDC, while 52 cases were unspecified.

77. Of the 288 cases analysed by the Group, 30 cases involved children recruited from November 2008 to February 2009. Of this number, nine cases of recruitment were conducted by Mai-Mai forces, seven by CNDP, seven by PARECO forces, two by FDLR, two by FARDC, and three were unspecified. In addition, of 288 recruitment cases, 36 children had been repeatedly recruited; of these, 24 children were recruited twice, while 12 children were recruited at least three times. These numbers underline the fact that re-recruitment of children remains a worrying trend, as previously highlighted (see S/2008/773).

78. The Group understands that, owing to the accelerated nature of the integration process, in most cases the system for the verification and separation of children was not implemented, and verification teams were not deployed systematically across integration sites. This resulted in the inability of child protection partners to regularly identify, verify and separate all children during the process, and in children being deployed to the front lines before they could be identified and separated. The Group also received information that, at the beginning of the integration process, some CNDP military commanders threatened to leave the process if obliged to surrender children, and that some military commanders were involved in hiding children during the identification process.

79. Of the 91 children repatriated by MONUC from January to April 2009, 75 were drawn from CNDP ranks, 13 from FDLR, 2 from PARECO and 1 from FARDC. Most of the children from CNDP were Rwandan, although the Group has also documented cases of Burundian and Ugandan ex-CNDP child combatants. This analysis confirms the Group's finding of cross-border recruitment of children, as previously reported (S/2008/773).

80. The Group identified several children integrated into military units on the axis between Mushake and Kitchanga. Here the Group observed significant numbers of children present in the FARDC integrated brigade, in particular at Kilolirwe and Kitchanga, under the control of 22nd sector FARDC Commander Colonel Innocent Kabundi. The Group also observed several children among the national police at Kitchanga. There the Group also obtained several testimonies concerning the abduction of 16 children and an estimated 14 adults in broad daylight, who were forced from the streets or houses to transport military equipment for FARDC troops towards the frontline at Pinga. The Group has separately interviewed three children who were abducted by FARDC in Kitchanga and used as porters in military operations.

81. The Group has also collected evidence that Lieutenant Colonel Zimurinda, currently FARDC brigade commander based in Ngungu, refuses to separate children under his command. Since October 2008, the Group has collected several reports of Lieutenant Colonel Zimurinda forcibly recruiting children; according to witnesses interviewed by the Group, if children resist recruitment they are imprisoned and beaten until they submit. According to testimonies collected by the Group, several children were actively hidden by Zimurinda at Numbi while his troops were going through the identification process. On 17 April 2009, Lieutenant Colonel Zimurinda attempted to forcibly remove children who had escaped to the MONUC peacekeeping base in Ngungu. Lieutenant Colonel Butoni, deputy to Zimurinda and also currently based in Ngungu, is also known to recruit and use children.

82. The Group received unconfirmed reports of ongoing recruitment by Mai-Mai groups in the northern part of Rutshuru towards Vitshumbi. According to local sources, children often join Mai-Mai militias to protect their community from attacks. The Group will also continue to investigate groups including FDLR and splinter PARECO forces which are known to maintain children in their ranks.

83. In the course of a separate field mission, the Group observed the presence of two children as the armed escort of Colonel Eric Ruhorimbere, deputy commander to Colonel Philemon Yav, responsible for FARDC zone 1 operations in Rutshuru.

84. The Group has received multiple reports of ongoing recruitment in particular in the area of Western Masisi by the Alliance des patriotes pour un Congo libre et souverain of Colonel Janvier Buingo Karairi. According to multiple sources, he has resumed the recruitment of children, with at least 11 confirmed cases of recruitment conducted by his forces during February 2009 alone.

85. The Group also notes that Lieutenant Colonel Jean-Pierre Biyoyo, former leader of the Mudundu 40 militia, who was sentenced by military tribunal in March 2006 for crimes which included the recruitment of children, is now serving as the deputy FARDC commander in the 32nd sector deployed in South Kivu, under the command of Colonel David Rugayi.

Serious violations of international law targeting women and children

86. The Group is working closely with MONUC, United Nations bodies and non-governmental organizations, as well as victims of abuses, to identify trends and responsibility for serious violations of international law targeting women and children. The perpetrators of violations of human rights and international human rights law committed in North and South Kivu and Oriental Province were mainly members of foreign armed groups, namely LRA and FDLR, as well as elements of FARDC taking part in the *Kimia I* and *II* operations against FDLR. The violations consisted of arbitrary executions, reprisal killings, abductions and wilful destruction of property, perpetrated mainly by LRA and FDLR, and sexual violence, forced labour, looting and ill-treatment of civilians perpetrated by FARDC soldiers.

87. Gathering and analysing verified reports of sexual violence remains extremely difficult in the eastern Democratic Republic of the Congo for various reasons, including victims' fear of reporting the crime, lack of judicial redress for rape victims, the inherent difficulty of establishing command and control arguments in cases of rape, and the lack of systematized data collection of incidents of sexual violence, as previously noted (S/2008/773). The Group is encouraged by the Comprehensive Strategy on Combating Sexual Violence in the Democratic Republic of the Congo, prepared by the Office of the Senior Adviser and Coordinator for Sexual Violence in the Democratic Republic of the Congo, which recommends the streamlining of coordination mechanisms including in the data collection phase. At the same time, the Group notes that, in an environment in which the identity of perpetrators is rarely reported, the capacity to hold individuals accountable through the use of targeted sanctions is limited.

88. The Group will, however, continue to collect reports of sexual violence committed by members of armed groups, and likewise intends to continue investigating cases of systematic and wide-scale abuses targeting women committed by military forces, including cases where FARDC elements are involved.

89. According to reports that have been collected by the Group, all non-governmental armed groups and FARDC are responsible for committing abuses targeting women and children. In a small sample from Kalehe and Masisi territories alone, a total of 142 cases of rape by military actors were reported and verified from 1 November 2008 to 10 April 2009. The alleged perpetrators represented all groups: 43 reports of rape allegedly committed by PARECO elements, 45 committed by CNDP, 30 by FDLR, 21 by FARDC elements and 3 by Mai-Mai. Although these numbers are far from exhaustive, they are indicative of the continued high level of sexual violence committed by military agents.

90. The Group has also gathered verified reports of systematic rape committed by FARDC troops in Kanyabayonga in November and December 2008. According to those reports, a total of 49 cases were confirmed to have been perpetrated by elements of FARDC. Because of the confusion resulting from the CNDP advance and subsequent flight of FARDC elements, it is not possible to ascribe individual responsibility; however it is known that troops from the FARDC 2nd, 4th, 6th, 7th, 9th, 13th, 15th and 16th Brigades were present in Kanyabayonga at that time.

Command responsibility

91. The Group has been able to identify a number of cases of command responsibility by members of various non-governmental armed groups and FARDC for violations of international law targeting women and children. However, the Group notes its limited resources and time frame on the ground.

FDLR

92. Retaliation during the operations *Kimia I* and *II* exposed the civilian population to abuses by FDLR elements, including dozens of reported killings. The Group received credible reports of attacks carried out by FDLR elements on several villages, throughout North and South Kivu, and is following up a number of leads.

LRA

93. The Group received verified information of gross violations of international human rights law by elements of LRA from 25 to 28 December 2008 as well as during the first two weeks of January 2009. According to credible estimates, a total of 1,020 civilians were killed during LRA attacks carried out from December 2008 to March 2009 in the north-eastern Democratic Republic of the Congo. In addition, agricultural fields, public and official buildings, mainly schools, were systematically looted and then burned in all the localities that were attacked. As a result of the attacks, an estimated 100,000 persons were internally displaced.

FARDC

94. The Group has gathered reports of documented killings conducted by FARDC troops in Goma and the area of Kanyabayonga at the end of 2008, and in southern Lubero territory since the end of January 2009.

95. In Rutshuru territory, FARDC deployed along the Kiwanja-Ishasha axis have been involved in several cases of rape and attempted rape, systematic looting, extortion and general harassment of the local population since their arrival on 23 January 2009. Elements of the FARDC 15th Integrated Brigade, who were

formerly deployed in Kanyabayonga, were identified as the main perpetrators. The Group also has information on systematic rapes perpetrated so far in 2009 by members of the FARDC 85th Brigade.

96. More recent killings of civilians by FARDC forces have been reported in the area of south Lubero territory. Since the end of January 2009, several civilians have been killed by FARDC elements who accuse the local population of collaborating with FDLR forces in the area. In addition to the killings and looting reported, Government forces have been responsible for the burning of villages since the beginning of operations against FDLR, including in Miriki (Lubero territory) where FARDC forces burned 150 houses. According to a Government source in Kanyabayonga, during the early part of April 2009, 103 women were raped by armed men in uniform, including FARDC soldiers.

97. The Group notes that, in Lubero territory, Colonel Smith commands the eastern axis (12th sector) and is based in Kanyabyonga, while Colonel Tchuma commands the northern axis (11th sector) and is based in Kirumba. The Group has received reports of FARDC troops committing abuses against civilians as they deployed in South Kivu in April 2009.

Killings in Kiwanja on 5 November 2008: follow-up

98. In paragraph 191 of its final report (S/2008/773), the Group of Experts reported the targeted killings of civilians by CNDP in Kiwanja on 5 November 2008, following clashes the day before between CNDP and PARECO. According to information gathered during the current mandate, the toll of civilian deaths amounted to 89, among them 2 children, 3 women and 84 men. The United Nations Joint Human Rights Office documented 67 victims, all of Nande or Hutu ethnicity, and mostly young males. According to eyewitness testimonies collected by the Group, some of which were corroborated by that Office, executions were carried out by Tutsi soldiers in camouflage uniforms and speaking Kinyarwanda. It is worth noting that, on 5 November 2008, Mai-Mai elements had retreated from Kiwanja before the executions began, and at the time of the killings there was no FARDC presence in the town.

99. The Group was able to confirm the presence in Kiwanja of the Chief of Staff of CNDP, General Bosco Ntaganda. The Group was also able to establish through eyewitness testimonies that Colonel Mulomba Bahati played a major operational role, together with Captain Seko, Laurent Nkunda's brother. Colonel Mulomba is currently the Commander of the FARDC 132nd Brigade in North Kivu, formally known as the FARDC 18th Integrated Brigade, whereas Captain Seko was deployed on the Rutshuru axis, under the command of Colonel Philemon Yav. In addition, the Group received verified information that CNDP Lieutenant Colonel Innocent Zimurinda, Major Murenze, Major Kipanga and Major Mupenzi participated in the military operations in Kiwanja.

Attacks on humanitarian staff and obstruction to deliveries of humanitarian aid

100. According to information provided by the Office for the Coordination of Humanitarian Affairs, the commencement of FARDC operations against FDLR led to a new wave of displacement in North Kivu. According to humanitarian actors, the three main reasons for this new population movement were the joint military operations against FDLR, reprisals committed by FDLR against the civilian

population, and pillage and looting committed by FARDC forces. Areas of highest humanitarian concern currently include the area west of the Kanyabayonga axis, around Pinga, southern Lubero territory, and the Nyabiondo-Walikale axis. Humanitarian actors are reporting that delivery of humanitarian supplies is being either halted or delayed in several areas of North Kivu by FARDC troops because of military operations, while civilians have been targeted by opposing military forces in militarized zones.

101. According to humanitarian agencies, the security situation for humanitarian agencies and civilians has deteriorated since the beginning of *Kimia II* operations in South Kivu. The population in Kalehe and Bunyakiri territory is at particular risk, especially in the Bunyakiri-Hombo area where civilians have begun to flee from renewed attacks and abuses by FDLR forces and FARDC. Abuses committed by elements of FARDC, including rape, extortion and forced labour, continue to be reported in various parts of South Kivu.

102. Five security incidents against staff of humanitarian agencies were reported in January 2009 in North Kivu, 13 in February 2009 and 16 in March 2009, according to reports received by the Group. Since the beginning of April 2009, there have been eight separate incidents of attacks on humanitarian staff in North Kivu, perpetrated by unknown armed elements. Attacks on humanitarian actors by military elements have resulted in the suspension of activities by some humanitarian agencies in North Kivu. The route between Kitchanga and Mweso has become particularly dangerous for the delivery of humanitarian aid, with eight attacks on humanitarian vehicles from December 2008 to March 2009, including attempted shootings and robberies by unidentified soldiers. Several attacks against non-governmental organizations were also perpetrated by unknown armed elements on the road between Goma and Rutshuru between January and April 2009.

Vetting

103. The findings set out above concerning the continued presence of children in the ranks of the recently integrated brigades, as well as grave human rights abuses committed by former commanders of armed groups currently integrated in FARDC, make a compelling argument for the establishment of a vetting mechanism that would make it possible to screen the human rights records of FARDC military commanders. The Group considers that such an initiative is indispensable for a sustainable integration process, and would strengthen the capacity of the Government of the Democratic Republic of the Congo to effectively extend State authority in the eastern Democratic Republic of the Congo and protect its own nationals. The Group wishes to note that, in the absence of such a mechanism, command responsibility for human rights abuses of the civilian population will ultimately rest with the supreme military command of FARDC.

XI. Natural resources

104. In accordance with subparagraph 4 (g) of resolution 1857 (2008), the Group is continuing its work on the links between the exploitation of natural resources and illegal armed groups.

105. The Group understands from interviews with FDLR deserters, MONUC officials and non-governmental organizations that FDLR continues to operate in

mining sites in South Kivu and has even expanded into new sites in the province since January 2009. The Group understands that many of the traders involved in purchasing cassiterite, gold and other minerals from FDLR areas in South Kivu in 2008 continue to do so. The Group also understands that gold-trading networks linked to FDLR in North Kivu, as highlighted in the previous Group's final report (S/2008/773), remain active. The Group is also monitoring the mining activities that were controlled by CNDP in 2008.

106. The Group has met with one member of the Fédération des entreprises du Congo from South Kivu, the business group that represents the mineral-exporting houses in South Kivu, including the companies mentioned in the Group's previous report, and will undertake a follow-up meeting in Bukavu to understand whether companies have started to implement any due diligence procedures in the purchase of minerals. In 2008, the head of the Federation in Bukavu, Mudekereza Namegabe, questioned the Group as to whether FDLR even existed. The Group will also be following up on the issue of due diligence with traders in North Kivu.

107. As highlighted in the previous Group's final report (S/2008/773), Congolese law draws a distinction between mineral-exporting businesses, or *comptoirs*, which are allowed to buy minerals only from licensed traders, or *négociants*, before they export. Previously, *comptoirs* had endeavoured to shift the responsibility for sourcing the minerals to *négociants*, even when many *comptoirs* work directly with specific *négociants* and even pre-finance their purchasing activities. Some senior managers in *comptoirs* from North and South Kivu have now informed the Group that many comptoirs systematically pre-finance specific *négociants*, and consider them company employees. In some cases, *comptoirs* even pay the licence fees to obtain *négociant* permits for their own employees. Indeed, in the latest North Kivu annual report published by the mining ministry of the Democratic Republic of the Congo and reviewed by the Group, many *négociants* are listed as working specifically for specific *comptoirs*. The Group considers this further evidence that *comptoirs* are responsible for the purchase of their minerals, and intends to discuss with the authorities of the Democratic Republic of the Congo ways in which the current system of *comptoirs* and *négociants* can be made more transparent.

108. The Group has been in contact with Traxys and Trademet, two companies named in the Group's last report (S/2008/773) as consumers of minerals that had been sourced by certain *comptoirs* from FDLR and CNDP. The Group will follow up with other companies named in its previous report, which have been trading minerals sourced from FDLR areas.

109. At a meeting on 16 March 2009 in Brussels, Traxys executives informed the Group that they were continuing to buy minerals from the same *comptoirs* that were identified as having purchased minerals from FDLR in the Group's last report, and were doing so on the basis of waivers signed by those suppliers, who were claiming that their sources of minerals were not controlled by armed groups.

110. In line with paragraph 15 of resolution 1857 (2008), which underlines the importance of due diligence, the Group addressed an official correspondence to Traxys on 26 March 2009 requesting further documentation and information on any further due diligence measures the company was taking. Traxys replied to the Group on 24 April 2009, indicating that it would suspend all purchasing activities in the Democratic Republic of the Congo in the light of the Group advising that "there is no acceptable solution to this issue but to stop any purchase of material". However,

in its letter dated 26 March 2009, the Group did not make any explicit requests to Traxys except for documentation and for further details on any further due diligence efforts by Traxys. The company has not replied to the Group's two requests for documentation and information on due diligence.

111. Trademet has also replied to a number of questions submitted by the Group, but did not address the Group's query regarding the issue of due diligence. The Group would welcome the publication of due diligence plans by companies named in the Group's last report as well as other consumers of Congolese minerals.

112. The Group believes that the ability of *comptoirs* to pre-finance and control *négociants* gives consuming companies a realistic chance of supporting efforts by *comptoirs* to persuade their *négociants* to purchase responsibly. This applies more so for clients such as Traxys, which already have close and long-established relationships with specific *comptoirs*.

113. The Group has still not received information it requested from the Government of Burundi in 2008 in relation to gold exports connected to FDLR trading networks. The Group considers this information vital if it is to close cases on FDLR gold trading networks in the region.

XII. Recommendations

114. The Group recommends that the Government of the Democratic Republic of the Congo implement a vetting mechanism to screen the human rights records of FARDC officers within the wider context of security sector reform.

115. In the interest of promoting transparent stockpile management and preventing the diversion of weapons and ammunition to non-governmental armed groups, the Group recommends that all States exporting military equipment to the Democratic Republic of the Congo notify the Committee of their exports, and include in such notifications all relevant information, in particular the suggestions put forward in paragraph 68 above.

116. The Group recommends that the Government of the Democratic Republic of the Congo undertake a review of the mining legislation vis-à-vis the role of *comptoirs* and *négociants*, with a view to improving transparency in the trade of minerals mined in the Democratic Republic of the Congo.

117. The Group recommends that the Government of the Democratic Republic of the Congo and international donors ensure full support to the initiative of the Institut congolais pour la conservation de la nature of promoting combustible briquettes as an alternative to charcoal, in order to weaken FDLR financial support derived through the illegal production of charcoal in the Virunga National Park.

Annex

Meetings and consultations*

Belgium

Government

Ministère des affaires étrangères

Organizations

International Peace Information Service

World Diamond Council

Private sector

Traxys

Tony Goetz & Zonen

Burundi

Government

Ministère des relations extérieures et de la coopération

Organizations

International Conference on the Great Lakes Region

United Nations Integrated Office in Burundi

International Crisis Group

Private sector

Chambre de Commerce et d'Industrie

Diplomatic representations

Embassy of Belgium

Embassy of France

United Kingdom Department for International Development

Democratic Republic of the Congo

Government

Administration provinciale de Nord Kivu

Administration provinciale de Sud Kivu

Agence nationale de renseignement

* For security reasons, the names of certain individuals and entities that have provided information or statements to the Group of Experts cannot be listed.

Assemblée provinciale du Nord Kivu

Assemblée nationale

Banque centrale du Congo

Centre d'évaluation, d'expertise et de certification

Comité interprovincial de coordination des opérations

Direction générale de migration

Institut congolais pour la conservation de la nature

Ministère des affaires étrangères

Ministère de l'intérieur

Ministère des mines

Ministère des transports

National Focal Point for Small Arms and Light Weapons

Office des douanes et accises

Office congolais de contrôle

Police nationale congolais

Régie des voies aériennes

Service d'appui et d'encadrement des exploitants artisanaux des mines

Organizations

Bego-Congo, Exploitation-Forestière

Centre de Coordination pour l'action contre les mines, Bukavu

ENOUGH

EUPOL

EUSEC

Human Rights Watch

MONUC

Save the Children

United Nations Children's Fund

United Nations Development Programme

United Nations Joint Human Rights Office

United Nations Office for the Coordination of Humanitarian Affairs

World Food Programme

World Bank

Diplomatic representations

Embassy of Angola

Embassy of Belgium

Embassy of France

Embassy of the Russian Federation

Embassy of the United States of America

European Union

Private sector

Corporation des Comptoirs agréés de Goma au Nord Kivu

Fédération des entreprises du Congo (Bukavu)

SDV Agetraf

Supercell

Non-governmental armed groups

CNDP

PARECO

FDLR

France

Government

Ministère des affaires étrangères

Italy

Procura della Republica di Perugia

Rwanda

Government

Ministry of Foreign Affairs

Rwanda Demobilization and Reintegration Commission

Organizations

MONUC

Diplomatic representations

British High Commission

Switzerland

Office of the United Nations High Commissioner for Human Rights

United States of America

Diplomatic representations to the United Nations

Permanent Mission of Belgium

Permanent Mission of the People's Republic of China

Permanent Mission of the Democratic Republic of the Congo

Permanent Mission of France

Permanent Mission of Germany

Permanent Mission of Rwanda

Permanent Mission of the United Kingdom of Great Britain and Northern Ireland

Permanent Mission of Uganda

United States Mission to the United Nations

United Nations Headquarters

Department of Peacekeeping Operations

Department of Field Support

Department of Political Affairs

Office of Internal Oversight Services

Office of Legal Affairs

Office of the Special Representative of the Secretary-General for Children and Armed Conflict